
By: **Delegates Rosenberg, Hubbard, Oaks, and Pendergrass**

Introduced and read first time: February 13, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection Act for Wheeled Mobility**

3 FOR the purpose of requiring certain residential service agencies to meet certain
4 requirements as a condition of licensure; specifying certain residential service
5 agencies that are subject to this Act; requiring certain residential service
6 agencies to employ qualified rehabilitation professionals; requiring certain
7 residential service agencies to ensure that qualified rehabilitation professionals
8 meet certain requirements and perform certain duties; requiring certain
9 residential service agencies to apply for or obtain certain accreditation on or
10 before a certain date; providing a certain exception to the requirements for
11 certain residential service agencies regarding the employment of qualified
12 rehabilitation professionals under certain circumstances; requiring individuals
13 to obtain certain professional or educational credentials in order to act as a
14 qualified rehabilitation professional; requiring qualified rehabilitation
15 professionals to perform a certain technology assessment of certain consumers;
16 requiring qualified rehabilitation professionals to document in writing certain
17 recommendations; requiring qualified rehabilitation professionals to perform
18 the final fitting of a wheeled mobility system for a consumer; requiring certain
19 consumers to undergo a physical evaluation by certain health care practitioners
20 and submit a written report of the physical evaluation to a qualified
21 rehabilitation practitioner prior to obtaining a technology assessment for a
22 wheeled mobility system; requiring the Department of Health and Mental
23 Hygiene to adopt certain regulations; defining certain terms; providing for a
24 delayed effective date; and generally relating to residential service agencies and
25 the regulation of the sale, service, and instruction in the use of wheeled mobility
26 systems.

27 BY repealing and reenacting, with amendments,
28 Article - Health - General
29 Section 19-4A-05
30 Annotated Code of Maryland
31 (2000 Replacement Volume and 2003 Supplement)

32 BY adding to
33 Article - Health - General

1 Section 19-4B-01 through 19-4B-08, inclusive, to be under the new subtitle
2 "Subtitle 4B. Consumer Protection Act for Wheeled Mobility"
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2003 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Health - General**

8 19-4A-05.

9 To qualify for a license, an applicant:

10 (1) Shall show that the residential service agency will provide
11 appropriate home health care providers to sick or disabled individuals who may be
12 provided care in the individual's residence, instead of in a hospital;

13 (2) SHALL MEET THE REQUIREMENTS OF SUBTITLE 4B OF THIS TITLE IF
14 THE RESIDENTIAL SERVICE AGENCY SELLS, SERVICES, OR INSTRUCTS CONSUMERS
15 IN THE USE OF WHEELED MOBILITY SYSTEMS, IF THE CONSUMER MEETS THE
16 CRITERIA SPECIFIED UNDER § 19-4B-02 OF THIS TITLE;

17 [(2)] (3) Shall meet any additional requirements that the Department
18 adopts; and

19 [(3)] (4) May not be required to meet the requirements of Subtitle 1 of
20 this title for certificate of need.

21 SUBTITLE 4B. CONSUMER PROTECTION ACT FOR WHEELED MOBILITY.

22 19-4B-01.

23 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

25 (B) "ASSISTIVE TECHNOLOGY PRACTITIONER" MEANS A THERAPIST OR
26 ALLIED HEALTH CARE PROFESSIONAL PRIMARILY INVOLVED IN EVALUATING A
27 CONSUMER'S NEED FOR AND TRAINING A CONSUMER IN THE USE OF A WHEELED
28 MOBILITY SYSTEM.

29 (C) "ASSISTIVE TECHNOLOGY SUPPLIER" MEANS A SERVICE PROVIDER
30 INVOLVED IN THE SALE, SERVICE, OR INSTRUCTION OF CONSUMERS IN THE USE OF
31 COMMERCIALY AVAILABLE WHEELED MOBILITY SYSTEMS.

32 (D) "CONSUMER" MEANS THE ULTIMATE RECIPIENT OR USER OF A WHEELED
33 MOBILITY SYSTEM THAT HAS BEEN PRESCRIBED BY A PHYSICIAN.

1 (E) "HEALTH CARE PRACTITIONER" MEANS ANY INDIVIDUAL WHO IS
2 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH
3 OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.

4 (F) "PHYSICAL EVALUATION" MEANS A DETERMINATION AND
5 DOCUMENTATION OF THE PHYSIOLOGICAL AND FUNCTIONAL FACTORS THAT
6 IMPACT THE SELECTION OF AN APPROPRIATE SEATING AND WHEELED MOBILITY
7 SYSTEM.

8 (G) "QUALIFIED REHABILITATION PROFESSIONAL" MEANS AN INDIVIDUAL
9 WHO MEETS THE CRITERIA SPECIFIED UNDER § 19-4B-05 OF THIS SUBTITLE.

10 (H) "REHABILITATION ENGINEERING TECHNOLOGIST" MEANS AN INDIVIDUAL
11 WHO APPLIES ENGINEERING PRINCIPLES TO THE DESIGN, MODIFICATION,
12 CUSTOMIZATION, OR FABRICATION OF WHEELED MOBILITY SYSTEMS.

13 (I) "TECHNOLOGY ASSESSMENT" MEANS THE PROCESS AND
14 DOCUMENTATION OF MATCHING THE PATHOLOGY, HISTORY, AND PROGNOSIS OF A
15 CONSUMER TO THE APPROPRIATE WHEELED MOBILITY SYSTEM.

16 (J) "WHEELED MOBILITY SYSTEM" MEANS A MANUAL OR POWER-OPERATED
17 MOBILITY SYSTEM PRESCRIBED BY A PHYSICIAN AND REQUIRED FOR USE BY THE
18 PATIENT FOR A PERIOD OF NOT LESS THAN 6 MONTHS THAT MAY INCLUDE:

- 19 (1) ALTERNATIVE DRIVING CONTROLS;
- 20 (2) MANUAL OR POWER SEATING OPTIONS;
- 21 (3) MULTIADJUSTMENT FRAME;
- 22 (4) NONSTANDARD PERFORMANCE OPTIONS;
- 23 (5) SEATED POSITIONING COMPONENTS; OR
- 24 (6) OTHER COMPLEX OR SPECIALIZED COMPONENTS.

25 19-4B-02.

26 THIS SUBTITLE APPLIES TO LICENSED RESIDENTIAL SERVICE AGENCIES THAT
27 SELL, SERVICE, OR INSTRUCT CONSUMERS IN THE USE OF WHEELED MOBILITY
28 SYSTEMS, IF THE CONSUMER:

- 29 (1) IS UNDER THE AGE OF 21;
- 30 (2) HAS A DIAGNOSIS THAT:
 - 31 (I) RESULTS FROM CHILDHOOD OR ADULT ONSET INJURY OR
32 TRAUMA THAT MAY BE PERMANENT IN NATURE OR REQUIRE LONG-TERM
33 REHABILITATIVE CARE;
 - 34 (II) IS PROGRESSIVE IN NATURE;

1 (III) IS NEUROMUSCULAR IN NATURE; OR

2 (IV) INDICATES A NEED FOR OTHER ASSISTIVE TECHNOLOGY SUCH
3 AS SPEECH GENERATING OR ENVIRONMENTAL CONTROLS; OR

4 (3) REQUIRES ADAPTIVE SEATING OR POSITIONING EQUIPMENT.

5 19-4B-03.

6 EACH LICENSED RESIDENTIAL SERVICE AGENCY SHALL MEET THE
7 REQUIREMENTS OF THIS SUBTITLE AS A CONDITION OF LICENSURE AS A
8 RESIDENTIAL SERVICE AGENCY UNDER SUBTITLE 4A OF THIS TITLE.

9 19-4B-04.

10 (A) EACH LICENSED RESIDENTIAL SERVICE AGENCY SHALL:

11 (1) EMPLOY, EITHER DIRECTLY OR CONTRACTUALLY, AT LEAST ONE
12 QUALIFIED REHABILITATION PROFESSIONAL;

13 (2) ENSURE THAT ALL QUALIFIED REHABILITATION PROFESSIONALS
14 EMPLOYED BY THE AGENCY:

15 (I) MEET THE REQUIREMENTS OF § 19-4B-05 OF THIS SUBTITLE;
16 AND

17 (II) PERFORM THE DUTIES SPECIFIED UNDER § 19-4B-06 OF THIS
18 SUBTITLE; AND

19 (3) ON OR BEFORE JULY 1, 2007:

20 (I) OBTAIN ACCREDITATION FROM A NATIONALLY RECOGNIZED
21 ACCREDITING BODY; OR

22 (II) IF THE AGENCY HAS BEEN IN BUSINESS FOR LESS THAN 1
23 YEAR, PROVIDE PROOF THAT THE AGENCY HAS APPLIED FOR ACCREDITATION FROM
24 A NATIONALLY RECOGNIZED ACCREDITING BODY.

25 (B) IN THE EVENT OF THE TERMINATION OF EMPLOYMENT OF A QUALIFIED
26 REHABILITATION PROFESSIONAL FROM A RESIDENTIAL SERVICE AGENCY, THE
27 RESIDENTIAL SERVICE AGENCY:

28 (1) MAY BE EXEMPT FROM THE REQUIREMENTS UNDER SUBSECTION
29 (A)(1) AND (2) OF THIS SECTION FOR UP TO 1 YEAR ON APPROVAL OF THE
30 DEPARTMENT; AND

31 (2) SHALL ENSURE THAT AT LEAST ONE STAFF MEMBER MEETS THE
32 FOLLOWING REQUIREMENTS UNTIL A QUALIFIED REHABILITATION PROFESSIONAL
33 CAN BE HIRED:

34 (I) THE STAFF MEMBER CAN PROVIDE:

1 1. DOCUMENTATION OF THE SATISFACTORY COMPLETION
2 OF 15 HOURS OF CONTINUING EDUCATION WITHIN THE PREVIOUS 12 MONTHS IN
3 THE FIELD OF SEATING AND WHEELED MOBILITY;

4 2. PROOF OF AT LEAST 1 YEAR OF EXPERIENCE IN THE
5 FIELD OF REHABILITATION TECHNOLOGY; AND

6 3. THREE WRITTEN RECOMMENDATIONS FROM HEALTH
7 CARE PRACTITIONERS THAT ATTEST TO THE SKILLS OF THE INDIVIDUAL IN THE
8 FIELD OF SEATING AND WHEELED MOBILITY; OR

9 (II) THE STAFF MEMBER HAS SATISFACTORILY COMPLETED A
10 4-YEAR DEGREE IN ASSISTIVE TECHNOLOGY FROM AN ACCREDITED COLLEGE OR
11 UNIVERSITY.

12 19-4B-05.

13 (A) TO ACT AS A QUALIFIED REHABILITATION PROFESSIONAL, AN INDIVIDUAL
14 SHALL:

15 (1) BE CREDENTIALLED AS AN ASSISTIVE TECHNOLOGY PRACTITIONER
16 (ATP), ASSISTIVE TECHNOLOGY SUPPLIER (ATS), OR REHABILITATION ENGINEERING
17 TECHNOLOGIST (RET) BY THE REHABILITATION ENGINEERING AND ASSISTIVE
18 TECHNOLOGY SOCIETY OF NORTH AMERICA;

19 (2) UNTIL JULY 1, 2008, PROVIDE EACH OF THE FOLLOWING:

20 (I) DOCUMENTATION OF THE SATISFACTORY COMPLETION OF 15
21 HOURS OF CONTINUING EDUCATION WITHIN THE PREVIOUS 12 MONTHS IN THE
22 FIELD OF SEATING AND WHEELED MOBILITY;

23 (II) PROOF OF AT LEAST 1 YEAR OF EXPERIENCE IN THE FIELD OF
24 REHABILITATION TECHNOLOGY; AND

25 (III) THREE WRITTEN RECOMMENDATIONS FROM HEALTH CARE
26 PRACTITIONERS THAT ATTEST TO THE SKILLS OF THE INDIVIDUAL IN THE FIELD OF
27 SEATING AND WHEELED MOBILITY; OR

28 (3) HAVE SATISFACTORILY COMPLETED A 4-YEAR DEGREE IN ASSISTIVE
29 TECHNOLOGY FROM AN ACCREDITED COLLEGE OR UNIVERSITY.

30 (B) ON OR BEFORE JULY 1, 2008, EACH QUALIFIED REHABILITATION
31 PROFESSIONAL SHALL:

32 (1) BECOME CREDENTIALLED AS AN ASSISTIVE TECHNOLOGY
33 PRACTITIONER (ATP), ASSISTIVE TECHNOLOGY SUPPLIER (ATS), OR REHABILITATION
34 ENGINEERING TECHNOLOGIST (RET) BY THE REHABILITATION ENGINEERING AND
35 ASSISTIVE TECHNOLOGY SOCIETY OF NORTH AMERICA; OR

1 (2) SATISFACTORILY COMPLETE A 4-YEAR DEGREE IN ASSISTIVE
2 TECHNOLOGY FROM AN ACCREDITED COLLEGE OR UNIVERSITY.

3 19-4B-06.

4 EACH QUALIFIED REHABILITATION PROFESSIONAL EMPLOYED BY A
5 RESIDENTIAL SERVICE AGENCY SHALL:

6 (1) PERFORM A FACE-TO-FACE TECHNOLOGY ASSESSMENT OF EACH
7 CONSUMER BASED ON A PHYSICAL EXAMINATION COMPLETED BY THE CONSUMER'S
8 HEALTH CARE PRACTITIONER;

9 (2) BASED ON THE RESULTS OF THE TECHNOLOGY ASSESSMENT,
10 DOCUMENT IN WRITING RECOMMENDATIONS FOR A WHEELED MOBILITY SYSTEM
11 APPROPRIATE TO MEET THE CONSUMER'S NEEDS; AND

12 (3) PERFORM THE FINAL FITTING OF A WHEELED MOBILITY SYSTEM
13 FOR A CONSUMER.

14 19-4B-07.

15 A CONSUMER WHO REQUIRES A WHEELED MOBILITY SYSTEM SHALL:

16 (1) UNDERGO A PHYSICAL EVALUATION BY A HEALTH CARE
17 PRACTITIONER THAT PERFORMS PHYSICAL EVALUATIONS WITHIN THE HEALTH
18 CARE PRACTITIONER'S SCOPE OF PRACTICE; AND

19 (2) PROVIDE A WRITTEN REPORT OF THE EVALUATION TO A QUALIFIED
20 REHABILITATION PROFESSIONAL PRIOR TO OBTAINING A TECHNOLOGY
21 ASSESSMENT FOR A WHEELED MOBILITY SYSTEM.

22 19-4B-08.

23 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2005.